

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JAGUAR CARS, A Division of the Ford Motor
Company,

Civ. No. 03CV12532RGS

Plaintiff,

- against -

LEE IMPORTED CARS, INC.,

Defendant.

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**STATEMENT OF MATERIAL FACTS NOT IN DISPUTE
IN SUPPORT OF JAGUAR'S MOTION FOR
SUMMARY JUDGMENT ON ITS DECLARATORY JUDGMENT ACTION**

Plaintiff Jaguar Cars, a division of the Ford Motor Company, submits this Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment on its claim for a declaratory judgment. The record support for each fact set forth below is based on one or more of the following sources: the Complaint ("Compl."); the Answer and Counterclaims; and the Declaration of George Delaney, dated February 26, 2004 and the exhibits thereto, filed contemporaneously herewith.

1. Jaguar, a division of the Ford Motor Company, is a corporation organized under the laws of Delaware with its principal place of business in Dearborn, Michigan. (Counterclaim ¶ 2.)

2. Lee is an authorized Jaguar dealer with a facility located at 962 Worcester Road, Wellesley, Massachusetts 02482-3725. (Compl. ¶¶ 2, 6; Counterclaim ¶ 1.)

3. Lee's dealership is located in Norfolk County, Massachusetts. (Answer ¶ 4.)

4. Jaguar and Lee entered into a Dealer Agreement dated as of January 1, 1989 (the "Dealer Agreement") and the Jaguar Dealer Standard Provisions incorporated by reference therein (the "Standard Provisions"). (Compl. ¶ 13; Answer ¶ 13.)

5. Exhibit 1 to the Delaney Declaration is a true copy of the Dealer Agreement and Standard Provisions.

6. By letter dated August 25, 2003, Jaguar notified Lee that it had authorized the establishment of a Jaguar dealership to be located at 449 Neponset Street, Norwood, Massachusetts 02062 (the "Norwood point"). (Compl. ¶ 25; Answer ¶ 25; Delaney Decl., ¶ 3 and Ex. 2.)

7. The Norwood point is not within a circle with a radius of 8 miles from any boundary of Lee's dealership. (Delaney Decl., ¶ 4, Ex. 3.)


8. There is an "actual controversy" between the parties in that Lee asserted that the establishment of the Norwood point is a violation of Lee's rights, threatened to sue Jaguar to challenge the appointment, and thereafter asserted Counterclaims in this action against Jaguar based on the appointment. (Delaney Decl., Exs. 4, 5, and 6; Answer and Counterclaims, passim).

9. Exhibit 8 to the Delaney Declaration is a true copy of a letter dated October 22, 1993 that was sent by Jaguar to Lee at or around the time that Jaguar initially assigned an "area of primary sales responsibility" (or "AOR") to Lee. (Delaney Decl., ¶ 7.)

Dated: New York, New York
February 27, 2004

Respectfully submitted,

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